



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
087579,395	12/27/95	SWAIN W	

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MM32/0124

EXAMINER

KARLSEN, E

ART UNIT	PAPER NUMBER
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2858

19

DATE MAILED: 01/24/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

08/579395

Applicant(s)

SWAIN, W. H.

Examiner

E. KARLSEN

Group Art Unit

2858

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 5-27-99
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) all in the application is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) all in the application is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Applicable Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

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1. The rejection of January 28, 1999 is withdrawn and the following substituted therefor:
2. The requirement for additional fees was sent out on May 19, 1999 because there are at least 62 claims currently in the case. Applicant added 31 claims that is, claims 32-62, without cancelling the already present claims. The already present claims are claims 1-31 and whatever other claims were in the application prior to adding claims 32-62. Applicant has added numerous claims in response to Office Actions and given claims strange numbers. It is suggested that Applicant cancel all claims in the application except for claims 32-62. This can be done by putting a statement in the next amendment such as: "Cancel all claims except claims 32-62." Currently Applicant owes at least \$788.00 in added fees because claims 1-31 are still active. If all claims other than claims 32-62 are cancelled Applicant will not owe anything additional.
2. Claims all in the application are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear what all the claimed elements and steps are and it is not clear how they are interconnected and interrelated to produce the desired results. It is requested that a reading of each of the independent claims be provided with respect to a figure or figures of the drawings.
3. Claims all in the application are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The disclosure is presented in theoretical terms without ever presenting

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what one would do to construct the apparatus of the invention. It is not clear how the invention would be made and used.

4. Claims all in the application are rejected under 35 U.S.C. 112, first paragraph, because the best mode contemplated by the inventor has not been disclosed. Evidence of concealment of the best mode is based upon no workable physical description being presented.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

6. (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims all in the application are, insofar as understood, rejected under 35 U.S.C. 102(b) as being fully anticipated by Swain, Schroeder or VanZanten et al.

8. The Examiner does not understand the structure or operation of the invention. It is suggested that Applicant arrange a personal or telephone interview to maybe aid in understanding.

9. Any inquiry concerning this communication should be directed to Ernest <sup>F.</sup>~~P.~~ Karlsen at telephone number (703) 305-4768.

Karlsen/dc  
January 14, 2000



ERNEST KARLSEN  
PRIMARY EXAMINER